

GENERAL ASSEMBLY: Members of General Assembly ineligible for appointment to office of City Attorney of city of the fourth class.

Legislator:

April 11, 1945

4-19

FILED
64

Honorable John L. Moore
Prosecuting Attorney
Van Buren, Missouri

Dear Sir:

Reference is made to your letter under date of April 4, 1945, requesting an official opinion of this office, and reading as follows:

"Can a member of the General Assembly hold the office of City Attorney in a city of the fourth class? This is an appointive, draws only a nominal salary of \$25.00 per year, with fees for conviction and compensation for special work done for the city on order of Board of Aldermen."

In connection with the question which you have proposed, we direct your attention to Article III, Section 12, of the new Constitution of Missouri. The pertinent part thereof reads as follows:

" * * * When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. * * * "

This is but a restatement of a somewhat similar provision appearing in the old Constitution of Missouri as Article IV,

Honorable John L. Moore

-2-

April 11, 1945

Section 12, which read as follows:

"No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any office under this State, or any municipality thereof;
* * * "

From these harmonizing sections, it seems to us that it is the public policy of the people of the State of Missouri to prohibit members of the General Assembly holding other offices under municipalities of this state or other governmental subdivisions.

CONCLUSION

In the premises, we are of the opinion that a member of the General Assembly cannot, during his term of office as such, hold the appointive position of City Attorney in a city of the fourth class.

Respectfully submitted

WILL F. BERRY, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

WFB:HR